

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

ALISON FRIGON	:	
Plaintiff,	:	
	:	
v.	:	C.A. NO.:
	:	
THUNDERMIST HEALTH CENTER;	:	
MEGAN MCKAIN, C.N.M., ALIAS;	:	
And JOHN DOE, ALIAS	:	
Defendants.	:	

NOTICE OF REMOVAL

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND:**

1. On or about May 16, 2016, Alison Frigon ("Plaintiff"), through counsel, filed a Complaint in the Superior Court of the State of Rhode Island and Providence Plantations against Defendants Thundermist Health Center, Megan McKain, C.N.M, and John Doe, Case No. PC16-2216. The Complaint alleges four counts of negligence against the Defendants.

2. The attached documents are copies of the Complaint and Summons served on Thundermist Health Center on June 22, 2016. Certified or attested copies of all records and proceedings in the State of Rhode Island Superior Court, and a certified or attested copy of all docket entries therein, including the filing of a copy of this Notice of Removal, will be listed with this Court within ten days as required by the United States District Court for the District of Rhode Island Local Rule 81(b).

3. Pursuant to 28 U.S.C. § 2679(b)(1), the exclusive remedy for personal injuries arising out of or resulting from alleged negligent or wrongful acts of an employee of the United States while acting within the scope of his employment is an action against the United States in federal court pursuant to 28 U.S.C. § 1346(b).

4. Further, 28 U.S.C. § 2679(d)(2) provides: “[u]pon certification by the Attorney General that the defendant employee was acting within the scope of his . . . employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action or proceeding shall be deemed to be an action or proceeding brought against the United States . . . and the United States shall be substituted as the party defendant. This certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.”

5. Defendant Megan McKain is an employee of the United States Department of Health and Human Services, a federal agency, and was during the time period alleged in the Complaint.

6. Plaintiff alleges that on or about May 16, 2013, Defendants failed to properly provide her with medical care.

7. The attached certification of Peter F. Neronha, United States Attorney for the District of Rhode Island, the Attorney General’s designee, states that he has read the Complaint in this action and that on the basis of the information now available to him, finds and certifies that Defendant Megan McKain, C.N.M., was acting within the scope of her employment as an

employee of the United States at the time of the incident out of which the Plaintiff's claims arose. Accordingly, this action is properly removed pursuant to 28 U.S.C. § 2679(d)(2).

8. Notice of removal has been provided this date to Plaintiff and the Clerk of the Providence, Rhode Island Superior Court.

9. No defenses, including immunity are waived by the filing of this Notice of Removal.

Wherefore, notice is respectfully given that the captioned matter is removed to the United States District Court for the District of Rhode Island.

Respectfully submitted,

PETER F. NERONHA
United States Attorney

/s/ Amy R. Romero
AMY R. ROMERO
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Dated: October 26, 2016

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of October, 2016, I electronically filed the within Notice of Removal with the Clerk of the United States District Court for the District of Rhode Island using the CM/ECF System. A copy of the within document has been forwarded by regular mail, to:

Richard A. Pacia, Esquire
454 Broadway
Providence, Rhode Island 02909

/s/ Amy R. Romero
AMY R. ROMERO
Assistant U.S. Attorney